IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRTY FIRST DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 6627 of 2005

Between:

N.Hanumantha Reddy, s/o Papi Reddy,
r/o Flat No.402, Sai Apartments, Hanumanpet, Miryalaguda

Town, Nalgonda District.

..... PETITIONER

AND

1 The Superintending Engineer, R&B Circle, Nalgonda District at Nalgonda.
2 The Chief Engineer (R&B), Administration & NABARD, Errum Manzil, Hyderabad.
3 The Commissioner of Tenders, BRKR Buildings, Tank bund, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to pass appropriate writ, order or direction particularly one in the nature of writ of mandamus declaring the action of the respondents in not opening the price bid of the petitioner in respect of Devarakonda to Kurrampally Road, NIT No.324 of NABARD work as mentioned in the Notification in Item No.21, 22, and 23 dt.15-2-2005 and in opening the price bid of other contractors as illegal, improper, arbitrary, unreasonable and further direct the respondents to open the price bid of the petitioner in respect of the above mentioned work and then finalise the tenders.

Counsel for the Petitioner:MR.V.SREE RANGA RAO

Counsel for the Respondents: GP FOR ROADS & BUILDINGS

The Court at the admission stage made the following O R D E R:

This writ petition is filed seeking a Writ of Mandamus to declare the action of the respondents in not opening the price bid of the petitioner relating to road work of Devarakonda to Kurrampally NIT No. 324 of NABARD work as mentioned in item Nos.21, 22 and 23 dated 15.02.2005 and in opening the price bid of other contractors as illegal and arbitrary.

The facts are not in dispute.

Respondents issued tender notification dated 15.02.2005 inviting tenders relating to road work of Devarakonda to Kurrampally NIT No. 324 of NABARD. In pursuance of the tender notification, petitioner has loaded all the required documents and the tenders were opened on 21.02.2005 and the closure was effected on 10.03.2005. In respect of the above work, technical bid was opened on 10.03.2005 and financial bid was opened on 24.03.2005. The petitioner contends that though he submitted all the relevant documents as per the notification, his tender was disqualified on the ground that he has not lagged the machinery certificate by e-procurement site due to computer faults. Therefore, he made representation on 23.03.2005 to the first respondent to open the price bid. So far, respondents have not taken any action on the representation and, hence, the petitioner filed the present writ petition.

Learned counsel for the petitioner contended that due to computer faults, machinery certificate by e-procurement was not lagged and on that simple reason, the tender of the petitioner ought not to have been rejected.

On the other hand, learned Government Pleader for Roads and Buildings contended that the essential criteria for opening technical bid is that the bidder should submit the particulars with necessary certificates of availability either owned with proof or lease with lease deed and proof or to be procured against mobilization advance of the following key and critical equipment for the work. Therefore, the essential criterion cannot be dispensed with and hence, there is no discrimination in

considering the case of the petitioner.

It is not in dispute that the respondents have invited tenders for the improvements of road work in respect of Devarkonda to Kurampally road in Nalgonda District. To qualify for consideration of award of the contract, each bidder should fulfill the criteria mentioned in the tender notification. One of the conditions mentioned in the eligibility criteria is that the tenderer has to submit either a certificate issued by the Executive Engineer or a declaration on non – judicial stamp paper worth Rs.100/- as prescribed in statement –V along with sufficient proof of document in support of owning, such as invoice/ certificate of registration by the competent authority in support of the critical equipment. Since the petitioner failed to upload the machinery certificate, his tender application was disqualified and, therefore, the action of respondents cannot be said to be illegal or arbitrary. It is not the case of the petitioner that the tenders of similarly situated persons have been opened and his case has been discriminated. As the petitioner failed to comply with the particulars specified in the format schedule and failed to submit the necessary certificates, the tender of the petitioner has been disqualified.

It is brought to the notice of this Court by the learned counsel for the petitioner that the petitioner made a representation on 23.03.2005 to the first respondent requesting to open the price bid and sought, for a direction to take appropriate decision on the said representation. I am unable to accept the contention of the learned counsel for the petitioner. Since the petitioner failed to tag the machinery certificate, his tender application was rejected and, therefore, question of considering his representation does not arise. The writ petition is devoid of merits and is liable to be dismissed.

Accordingly, the writ petition is dismissed. No costs.

_____ (K.C.BHANU,J)

Dt:31st March, 2005

usd

To

1 The Superintending Engineer, R&B Circle, Nalgonda District at Nalgonda.
2 The Chief Engineer (R&B), Administration & NABARD, Errum Manzil, Hyderabad.
3 The Commissioner of Tenders, BRKR Buildings, Tank bund, Hyderabad.

4 Two CCs to G.P. for Roads and Buildings, High Court of A.P., Hyderabad (OUT)

5 Two CD copies